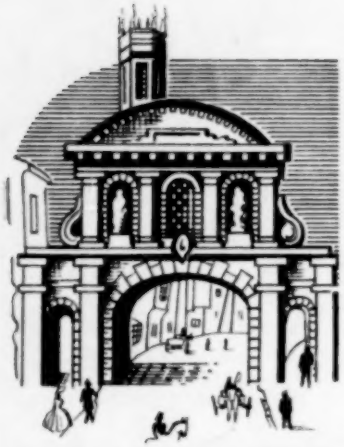

JUSTICE OF THE PEACE & LOCAL GOVERNMENT REVIEW

Saturday, October 8, 1955 **Vol. CXIX. No. 41**

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September 21, 1955.

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REPORTS

NOTES OF THE WEEK

Verdict of Coroner's Jury

By s. 4 (3) of the Coroners Act, 1887, as amended, if the verdict of a coroner's jury is to the effect that the deceased came by his death by murder or manslaughter, the persons, if any, whom the jury find to have been guilty of such murder or manslaughter, or of being accessories before the fact to such murder are to be stated. Upon such a verdict the coroner may commit for trial a person against whom the verdict has been brought.

Since the passing of the Coroners (Amendment) Act, 1926, there cannot have been so many committals by coroners as there were formerly, the question of committal for trial being usually dealt with by examining magistrates. At the Central Criminal Court in September, there was, however, a case of committal for trial on a coroner's warrant. The defendant was charged with the manslaughter of a little girl who was knocked down by his car. Counsel for the prosecution said that the defendant had been committed for trial after a coroner's jury had returned a manslaughter verdict against him, but it was quite clear from the coroner's summing-up that he took the view that this was, in fact, an accident. "I have examined all the evidence available and have discussed the matter with those instructing me, and it seems to us that there was no negligence, much less recklessness on the part of the accused and therefore this verdict cannot be sustained," said counsel.

The learned Judge said that he had no doubt that the prosecution had taken the right course. The verdict of the coroner's jury could not possibly be supported by the evidence and he regretted that the defendant had had to suffer the anxiety and distress of having been indicted in this way. As the coroner, learned counsel and those instructing him were of opinion that there was no case against the defendant, and as their opinion was endorsed by the learned Judge by whose direction the jury acquitted the defendant, it was unfortunate that the defendant had to be sent for trial at all. It prompts the suggestion that perhaps the law might well be amended so that where a coroner's jury returns a verdict of murder or manslaughter it should do so in general terms without bringing in a verdict against any particular person. In these days the police, with the assistance of their advisers and, in proper cases, the Director of Public Prosecutions, can be relied upon to bring a prosecution whenever the evidence justifies that course, and the examining magistrates are much better able than is a coroner's jury to decide whether the defendant should stand his trial at the Assizes.

Obscured Wind-screens

We are all familiar with the much-travelled man who is so proud of having been abroad that he has his luggage covered with labels—especially if he has stayed at the most expensive hotels. It is rather a foolish vanity that prompts this, but it is harmless, apart from possible inconvenience for porters or others who may be looking for a label indicating destination. There is, however, a much worse custom that is creeping in among motorists, of covering the wind-screen with pennants bearing the names of places they have visited.

It has been necessary for the police to take action, after warnings have been issued. We have read of two cases, one from Devon and one from Cornwall, and no doubt there have been others. The evidence showed that in each case the wind-screen was so plastered with pennants that the driver's view of the road was badly obscured. The chairman of one bench referred to the reprehensible habit which added to the already numerous risks of the road. It might be due to a sort of mistaken idea of flaunting the fact that they have visited a number of places, or perhaps a desire to decorate their vehicles. It was certainly not only a very undesirable practice, but also a very dangerous one.

A Good Word from the Prison Governor

The courts are accustomed to receive valuable reports from the prison authorities about the mental and physical condition of those whom they remand for the purpose of deciding how best to deal with them, and it is evident that governors and their staffs are genuinely interested

in this branch of their work. The courts look to probation officers for social reports, but perhaps they do not always realize how close may be the co-operation between the probation officer and the prison staff in the business of trying to understand the problem of the prisoner, his behaviour and his make-up.

In a case recently heard before a metropolitan magistrates' court, the attitude of the deputy-governor of a prison in which the defendant had been detained had a considerable influence in the decision to give him a chance on probation.

The man had had what the learned magistrate described as an appalling record, had been in prison 10 times in 10 years, and was released from prison only a few weeks earlier. He produced a letter from the deputy-governor, which led the magistrate to tell the defendant that there was one person who believed in him, and so he would take a chance with the defendant and put him on probation for two years. The probation officer said he had been in touch with the deputy-governor who seemed to think the man was worth giving a chance. He had never been put on probation, and this rankled.

There cannot be many men nowadays who can truthfully say that they were never given a chance and have gone on in crime for that reason, but it was common enough 40 or 50 years ago. In this instance, however, it appears to have been true. It is now for the man to show that he can go straight and thus justify the belief in him entertained by the prison governor and acted upon by the magistrate.

Maintenance Orders (Facilities For Enforcement) Act, 1920.

This Act has been extended to Guernsey by the Maintenance Orders (Facilities For Enforcement) (Guernsey) Order, 1955 (S.I. No. 1395).

The Act was extended to Jersey by S.I. 1953, No. 1215.

Closing Approved Schools

A welcome decrease in juvenile crime has naturally given rise to consideration about the necessity for retaining some of the existing remand homes and approved schools. It becomes unduly expensive to maintain an institution with a full and competent staff if the institution has continually a large number of empty places, and a number of approved schools have, we believe, been closed for this reason, just as many remand homes have been found unnecessary.

As we have said before, it has happened in the past that after a decline in juvenile delinquency and the consequent closing of some schools there has been a sharp increase, so that the need for approved schools again became urgent. It is difficult for those responsible to decide when it is safe to assume that schools may be closed because there are likely to be fewer approved school orders. Of course, this does not depend only upon the amount of juvenile crime; the policy of the courts in making freer use of other methods of treatment, such as probation or fit person orders, has a marked effect.

A serious problem arising out of the closing of approved schools is dealt with in a letter to *The Times* of September 12. The writers emphasize the discouraging effect upon staff of learning that their school is about to be closed, and the difficulty that is likely to be experienced in obtaining and retaining keen and qualified staff if it is felt that employment is by no means secure. The letter refers to the closing of 28 out of about 150 schools. If there is in consequence some deterioration in the service, says the letter, more of those committed to the schools will return to borstal and prison later on.

The Delinquent and the Handicapped

The writers of the letter point out that "A great many of the children in approved schools are not very different as children from the 10,000 or more educationally sub-normal and maladjusted children who are actually waiting for non-existent places in 'special schools'." One group have been through the courts while the other have not yet, but, it is suggested, they all need much the same kind of educational care.

This is no doubt true to a great extent. The writers of the letter make a practical suggestion. The schools and staffs could surely be used for appropriate children whether they had been through the courts or not. The obstacle is that approved schools come under the Home Office in matters of policy and finance, while the special schools are under the central and local education authorities. The letter concludes by suggesting that there is an overwhelming case for an inquiry into the educational provisions for all such handicapped children whether they have been through the courts or not.

Protection for the Public

While most people welcome the increasing tendency for the courts to take account of the offender's mental and physical condition as well as his offence, and in appropriate cases to pass a sentence or make an order that may prove to be for his benefit, it is necessary never to lose sight of the paramount duty of the courts to protect law-abiding people from dangerous or persistent criminals. That being realized it is right that the question of reforming the offender and helping him to rehabilitate himself should also be considered as far as may be possible.

At the trial of one Gellatly at the Central Criminal Court, Glyn-Jones, J., observed that the court was not a clinic for the out-patient. Counsel for the defence had said that the prisoner did not seem to be likely to be cured by a period of incarceration, and this may well be true. Gellatly was convicted of wounding a policeman with intent to resist arrest, and of attempting to steal. The principal medical officer of H.M. Prison, Brixton, had given evidence to the effect that the prisoner had been certified as subject to schizo-phrenia, that he said he acted under the influence of voices which compelled him to do what he did, which was often wrong. It was also stated that he had previous convictions, and that during a recent sentence had been certified and taken to an institution, where he remained for several months.

All this points to mental abnormality, but as there was no plea of insanity, the man had to be sentenced as a responsible offender, and terms of seven and two years' imprisonment were imposed. The point of the learned Judge's remark is obvious: the law cannot treat such an offender as simply a person in need of medical treatment to be carried out in the open, but must provide protection for the public from a man who had used a firearm in a determined attempt to evade capture. If he requires special psychological or other treatment, the authorities may be relied upon to see that he receives it in prison or elsewhere.

Training Motor Cyclists

Mr. R. P. Wilson, chief constable of West Sussex, has been commending a scheme for the training of motor cyclists in the learner stage, and the matter is being taken up locally. Mr. Wilson is prepared, if the scheme is adopted, to provide specialist officers to give talks on the highway code and general traffic law.

One suggestion is that if the local motor-cycle clubs would co-operate, a training ground and certain rudimentary equipment would be needed. They could then get a free light-weight machine from the R.A.C. on which youngsters could learn to ride. The charge would be 12*s.* for a full course of lessons, instruction

being given by senior club members. The idea is that young people should learn to ride their motor cycles before they go on the highways. At the end of the course they would be subjected to a severe test.

One of the most distressing features of the present appalling road casualties is the number of fatal accidents to motor cyclists. Some of these are due to sheer recklessness, others to inexperience and lack of road sense. We have heard of more than one instance in which a boy has been killed on his first outing, simply because he did not know how to control the machine. If a training scheme were inaugurated, boys would be taught all about the mechanism and how to handle it, and could be warned about practices dangerous to themselves or others, and if all this were done before they ventured on the public roads they would be equipped with necessary knowledge and a sense of responsibility at the outset. Parents would no doubt co-operate to the full.

Curing Alcoholism

An article in *Probation* tells of an extraordinary and successful organization which originated in America for dealing with chronic cases of alcoholism. Known as " Alcoholics Anonymous," it has adopted the simple expedient of bringing alcoholics together in order that they may help one another. It is a non-profit making association, and anonymity is preserved by the use of Christian names only. A new member is assigned to a " contact " who is usually a former alcoholic who has become reformed or nearly so. The principle relied upon is that only the reformed (or reforming) alcoholic can truly understand and help another alcoholic to become well again and to remain well. A " contact " undertakes to be available for help on receipt of an S.O.S. by day or night—the help varying from conversation to retrieving his " subject " from a drinking bout. No S.O.S. has yet been ignored. A.A. tries to provide a philosophy of life, religious or material (one's own self respect, one's fears of friends' bad opinions or the loss of one's home, income, etc.). It also teaches that " the first drink, and not the last drink is the killer."

Meetings of members are held, some closed and some open to non-members. Mr. Stanley Heath, who contributes the article to *Probation*, says that he and some of his Kent colleagues have been most interested and impressed by what they have seen and heard at the open meetings they have attended. The membership in the United States is said to number 100,000, with thousands of members in many other countries. Mr. Heath quotes a case within his own experience, in which a man who, three years ago, was drinking himself to death and bringing his family to financial ruin, is now mentally, physically and morally transformed, with a happy family and home, and the holder of a responsible position. He is one member of Alcoholics Anonymous.

MORE ODDMENTS FROM THE " J.P."

By THE REV. W. J. BOLT, B.A., LL.M.

(*Continued from p.* 641, *ante*)

Although I dare not use these articles as a cover for any criticism of the present generation of magistrates, I cannot conceal my opinion that they are generally ignorant of the history of the very noble order of which they are members. So often, members of the commission have quoted " Stone " to me as a venerable monument to their antiquity, and I have occasionally retorted (wasting my breath), that the " J.P." is nearly five years older.

On p. 35 of the volume of 1842, we find a review of a new publication entitled *Stone's Justices' Pocket Manual*, the very first edition. Its title-page bore the description " A Guide to the ordinary duties of a Justice of the Peace, in reference principally to offences under the penal and criminal law, with an appendix of forms. By Samuel Stone, Solicitor, Clerk to the Justices for the Borough of Leicester. London: Shaw and Sons, 1842."

Here is the impression which the new venture made upon the " J.P."

" The author of this compendium states that all he attempts to accomplish in the following pages is to furnish in a portable form, such an alphabetical reference to points of practice and statutory offences as may in cases of ordinary occurrence render it unnecessary to have recourse to more comprehensive but on that account, less convenient publications, and that, with this view, he has omitted all notice of the customs, excise and settlement laws, consideration of which would have added so much to the size as to have entirely defeated his object. It will be readily admitted by all engaged in the execution of the duties accruing under the summary jurisdiction, that a clear and judicious arrangement of the numerous statutes and multifarious offences, penalties and punishments under them of which justices have cognizance, is to confer no small benefit upon those whose duty it is to carry them out; and the author of this little work has, we think, very successfully accomplished this. We do not know whether there are any justices so much enamoured with the labours of their office as to carry about with them pocket volumes for the purpose of solacing their minds in their rides or their walks, but if there are any such, they will find this one, not from its portability alone, but from the lucid view it gives of the whole fabric of the summary jurisdiction, by no means an uninforming companion."

The publication met with such success that a second edition was published in the same year. The " J.P." said of it at p. 643: " This is a second edition of a little work which we have heard exceedingly well spoken of by magistrates and professional men and which appears to us to be calculated to be of much service by way of ready reference and a guide to the whole summary jurisdiction."

At 1841, p. 709, there is a query which lugubriously reflects the curious attitude of the nineteenth century towards mental defect. The sober inquiry is addressed to " Practical Points." " Lunatics, How to be taken care of. In the parish where I reside, an idiot is kept at home who is, I am informed, treated with great cruelty. He is confined to an outhouse, chained by the leg, and has his food like a beast, given to him through an aperture in his cell. Nor does he, it is thought, ever see or feel the warmth of an autumn fire. How he is to live through the winter is very questionable, and I am anxious solely from motives of humanity to interfere on his behalf. He is not found wandering about, nor is he a pauper lunatic. Will you be pleased therefore to tell me in your next number what I can do, or refer me to the statute under which I can act? A Welshman." " If the idiot is not a lunatic chargeable to the parish, or wandering abroad, our correspondent's only method

of proceeding is to get accurate information of the mode of treatment of the idiot, and if it be such as to endanger its (*sic*) life or health, to go before a magistrate and make oath of the circumstances. The magistrate should grant a warrant against the wrongdoers, and bind them over to answer any indictment that may be preferred against them, or commit to the sessions in default. The charge would be one of assault and battery. The child may then perhaps be placed in the workhouse if it is not dangerous, or if it is and becomes chargeable, it may be sent under 9 Geo. IV, c. 40, s. 38, to the county or other lunatic asylum at the cost of the overseers of the place to which it belongs."

A more salubrious inquiry is pursued at p. 794. " Clerk of the peace: Fees. I must confess that I am somewhat disappointed by the working of the Municipal Reform Bill. The increase of expenses in carrying out its enactments is not attended with the beneficial consequences which I anticipated. In the small boroughs these expenses are inconveniently burdensome. Take for instance the salaries of the town clerk, the exorbitant fees of the magistrates' clerk, the extraordinary demands of the clerk of the peace, recorders' salaries—these amount to double the amount paid seven years ago without any additional advantage whatsoever. The point, however, to which I wish to draw your attention is this: a poor fellow who, it was generally thought had been most unreasonably convicted on a charge of felony of a most trumpery and equivocal character was, after the sentence had been pronounced, called upon by the clerk of the peace to pay four or five shillings for fees. The wretched man was poor and, his wife and three or four children standing near him weeping, had not the means to meet this request; but a gentleman present who had heard the trial took an interest in the case, and from his knowledge said there was not a man in the borough who could produce a better character for honesty, industry, and good conduct, gave him the amount required and the payment was made. The term of his imprisonment is nearly expired, and the hard labour and solitary confinement endured. The prisoner is now told that if he is not prepared to pay a fee of 3*s*. 6*d*. more, his liberation would be impeded by the said clerk of the peace. Surely this cannot be correct. I really thought that all fees as regards prisoners were abolished, and that the punishment endured operated as a statutory pardon. Will you please have the goodness to acquaint me on this subject, and greatly oblige. An Original Subscriber." " We have never before heard of a clerk of the peace demanding fees of a convicted felon, nor do we think that such a demand can be sustained in law, certainly not by statute and, we should apprehend, not by custom either. 55 Geo. III, c. 50, s. 4, enacts that any person indicted for a felony or misdemeanour acquitted, shall be discharged without fee. *A fortiori* then, should a convicted felon be excused from payment of fees because he has in law no property after his conviction. It must be therefore unlawful. As for fees for discharge from prison, they are entirely abolished by 55 Geo. III, c. 50, s. 1; and by s. 13, any jailer detaining any person in custody for non-payment of any fee or gratuity, is to be rendered incapable of holding his office and to be guilty of a misdemeanour. The jailer dares not suffer him to be detained either for fees demanded by himself or another."

A picturesque piece of legal doctrine is evoked by the inquiry at 1842, p. 563. " Waterman; in the case stated, whether keelmen under the 20 Geo. II, c. 19. A and B appear at a petty sessions to complain against their master for non-payment of wages duly earned in his service. C appears under a summons to answer the charge. A and B are watermen, *i.e.*, hired by the voyage for so much money by C, the master or captain, to navigate the vessel from G to B and back to G; the freight of the vessel is either coal or stone. The voyage is on a canal to a certain point where the vessel enters a navigable river which goes to B, and the voyage back to G is made on the same waters. This in the language of the country is called a voyage. The vessel is nearly flat-bottomed and called a barge. Some of the justices on hearing the case, considered A and B to come under the denomination of Keelmen, stating that in the north of England, men who navigate vessels of this description laden with coals, are invariably called Keelmen under the statute 20 Geo. II, c. 19; others do not. Will you be pleased to advise whether the men employed as stated come, in your opinion, under the word Keelmen in the statute?" " We do not think these men are Keelmen, a word which, if not peculiar to the workmen on the river Tyne, is yet, we believe, confined to men employed to bring coals from the land to the colliers or coal ships in certain low, flat-bottomed boats called Keels. We are rather disposed to think the use of the word is confined to the river Tyne . . . Its conjunction also in the Act with ' miners, colliers, pitmen ' shows what description of persons the legislature had in mind. It is odd that a vessel without a keel should be called a Keel; it is perhaps a second ' *lucus in lucendo*.' "

The headnote of a report at 1842, p. 709, conjures up a picture of the former privileges of the City companies. " In *re* G. W. White, 1 C. and M. 189, the exemption from serving as jurymen, claimed by the members of the Barbers' Company under the charters of 1 Ed. IV, and 5 Car. I, and the statute 18 Geo. II, c. 15, does not extend to the central criminal court, but is confined to the local courts of the city—those holden before the mayor, sheriffs, or the coroner."

There are many repercussions of the Bill which sought to abolish the use of dogs as beasts of burden.

A lengthy letter is printed at 1843, p. 138. " Dog Cart Bill. The Hon. Grantley Berkeley's Dissent from that measure. When an Act is contemplated with a view to benefit any particular class, whether of man or beast, be sure that the condition of the class for whom you legislate, will not be made worse, nor the interests of others be injured, before you pass it into a law. Thousands of dogs, most of them humanely treated and happy, from the passing of Sir R. Inglis's Bill, will be consigned by their owners to miserable deaths or driven loose upon the public, becoming for a time a general nuisance. The anatomy of the dog does not unfit him for the purposes of draught if not taxed beyond his strength in any greater degree than it does the horse. The dog has most advantages for that purpose which the horse has not. He can lie down in his harness and in a moment be found asleep, and then by stretching his limbs on the cold stones, become refreshed, whereas the horse, sweating from the pores of the skin, is susceptible of and will take cold from the same means which to the dog gives renewed vigour. The horse will not lie down in his harness, but when heated by exercise, it is scarcely safe to permit him to rest anywhere but under cover. Every use is subject to abuse, but there are in proportion to given numbers, as many dogs well-used and happy in their harness, and perhaps more, than there are horses. Look at the horses in some of the lowest carts about London, at the miserable donkeys which are for ever goaded with impunity under the eyes of the society styling itself ' humane,' and say if anything can be worse. Superficial observers are not aware of the immense importance to thousands of poor females who have not the means to keep a horse or an ass, of the dog for the purposes of draught, particularly on many parts of the sea coast. They assist mothers in the conveyance of their children when forced to take them to the vicinity of their daily work. They carry fish up and down the country, and aid their masters materially in hundreds of

occupations which would be affected by this Bill. In short, by denying the fair use of these animals to the humane and industrious poor, because there are some individuals brutally idle, would involve thousands and thousands in one common ruin.

To bring more immediately in view, one case out of many entailed by this surface legislation and mistaken humanity, the public have only to turn to the regulation of an unfortunate fellow creature who has been on the waysides, a clean and neatly dressed man deprived of his lower extremities, seated in a little cart and drawn by two contented, well-fed, and happy-looking dogs, the only earthly means of locomotion to their master, and the only things which seemed to love him or make a mute but eloquent appeal to the charity of the passers-by. To deprive that poor fellow of his dogs, were the same as rending from the rich man his carriage, his servants, his friends, and worse, for the rich man could then walk; but the humble and therefore ill-remembered sufferer is degraded and doomed to crawl upon the ground, the wretched victim of a mere surface legislation. Lastly, I object to, and dissent from, any measure that gives to the constable fresh rights of interference with the liberty of the subject, unsanctioned by previous application to a magistrate, when neither the laws of Heaven, of humanity, or of decency have been transgressed. Grantley Fitzhardinge Berkeley."

The contents of the Bill are described at p. 126. "Bill to prohibit the use of dogs as beasts of draught or burthen in England and Ireland. By s. 1, on and after December 31, 1843, every person who shall use any dog for the purpose of drawing or helping to draw any cart, carriage, truck, barrow or other vehicle, or carrying any burthen on any public road, lane, street, path or highway, within any part of the United Kingdom, out of or beyond the limits of the metropolitan police district, shall on being convicted of such offence, be liable to a £1 fine for the first offence, and not exceeding £4 and less than £2 for any subsequent offence." The Bill further permitted the sale of the vehicle and dog to pay the expenses of the prosecution. After being passed by the House of Commons, it was rejected by the House of Lords.

At p. 159, the editor expressed mordant criticism of another measure which was presented to the same session of Parliament. "Notice of Bills before Parliament. Nothing appears too small or insignificant to escape the attention and microscopic legislation of the representatives of the United Kingdom. Hardly had the present session opened than a furious onset was made against the owners of dog-carts, and a bill for the suppression of this horrible iniquity has been passed through the House with as much empressement as if it were expected to act as a panacea for all the distresses that beset the country. When we first saw the title of this Bill, as to 'Players of Interludes,' we were at a loss to conceive what object could arise out of it of sufficient magnitude to require the triple co-operation of the three gentlemen under whose protection it makes its appearance. And we very much doubt, if our readers were to guess for ever, whether they would hit upon it. To save their time and labour, we will at once disclose to them the happy intelligence that, should the Bill become law, any one of them will hereafter be at liberty to act, represent, or perform, or cause to be acted, represented, or performed, for hire, gain, or reward, any interlude, tragedy, or comedy, opera, play, farce, or other entertainment of the stage or any part or parts thereof, without a licence, 'in case,' and our readers must pay particular attention to this part of the Bill to ensure which we will place it in italics, '*in case such person shall have a legal settlement in the place where the same shall be acted, performed, or represented.*' No wonder that the conjoint aid of Mr. Tom Dun ombe, Mr. Ewart, and Capt. Paulsley were found necessary to accomplish so prodigious an innovation as this. Think of the inestimable benefit to the country at large. Anyone may without a licence for hire, gain or reward, act or cause to be acted a play provided he or she have a lawful settlement in the place where it is acted. We hope all our readers will at once go before a magistrate and have their examination taken as to their settlement, after which they may all turn players. Verily, there need be no more distress in the country."

For better or for worse, that note of emotional invective has long since disappeared from the pages of the "J.P."

LEGAL TIME SAVING: A LAYMAN'S SUGGESTIONS

By A. C. SUTTON

Reformers, filled with zeal to save time in the courts, rush in from every quarter with schemes varying from fining offenders on the spot, to a kind of Justice by Post system.

As one who has, for more than 20 years, watched the processes of the law from the press boxes of various magistrates' courts, I feel that most of them are off on the wrong track, while one or two real time-wasting practices have been completely overlooked.

One really major item will need special legislation to bring it to an end. It is the requirement of the law, as it now stands, that all cases which, for want of a better collective, may be called "breaking and entering" must go for trial.

This holds good, so far as adults are concerned, whether the prisoner is making his first appearance before a court, or whether he is the modern equivalent of the late Bill Sykes: and whether the property stolen, if any, be an article worth a few coppers, or my lady's diamonds, worth hundreds and maybe thousands of pounds.

The amount of time which people have spent, hanging about courts, waiting to give evidence in such cases, is quite incalculable. The number of words recorded on depositions by learned clerks (to the detriment of their hand-writing, and the eyesight of their assistants) cannot be computed. Business men, stock keepers, shopkeepers, caretakers and housewives, to mention but a few busy people, are amongst those who frequently, and at great personal inconvenience, spend hours in magistrates' courts waiting rooms for their turn to give evidence, often nothing more than a formality, in order to "prove the breaking."

Much is written by critics of court procedure about time wasting by police officers. In "breaking and entering" cases, where finger-print evidence is being submitted, an immense amount of their time is taken up. Finger-print experts are highly experienced men and could, surely, in many cases, be better employed getting on with their primary work of investigation.

To what end are all these witnesses called? Without having the actual figures available, I would be prepared to say that in at least 50 *per cent.* of the cases, quarter sessions, or the Assizes, will see the offender dealt with in one of several ways, all of which are within the power of the lower court. The prisoner will be (*a*) placed on probation (*b*) discharged conditionally (or even absolutely) or (*c*) fined or sentenced to a very moderate term of imprisonment.

Surely the law could, and should, be amended, so as to conform with the practice as carried out in larceny cases ? Both prosecution and defence would then retain the right to ask for trial by jury. Thus the rights of the community as a whole, and of the citizen as an individual, would be preserved. Benches, too, as in larceny cases, would be able to send the offender to a higher court if, after hearing the facts, or about his record, they felt their powers of punishment were, after all, inadequate.

The first offender would have the benefit of the early disposal of his case, or trial by jury if he preferred it. The prosecution could safeguard the public interest in two ways—by asking for committal in really serious cases (where, for instance, the offender has a record which merits his being put away for a long time) and by electing summary trial where no committal is really justified.

To the mere onlooker, it is a reform which would save time and much expense, quite apart from assisting in the interest of true justice.

As a minor adjustment towards time-saving, might not legislation be introduced to empower magistrates' clerks, at least in stipendiary courts, to carry out formal work in certain emergencies? This might include the hearing of applications; the granting of summonses in cases of maintenance arrears; the remand of accused persons, where bail is not opposed, and the power to order remands in custody for a limited period—say 48 hours—where there is opposition.

Everyone must, at one time or another, have seen the exasperation of witnesses, police officers, applicants and public servants when, for some unforeseen reason, his worship fails to arrive at the appointed time. Perhaps a sudden illness occurs, or there is a serious hold-up on road or rail. Everyone is needlessly delayed while, on hand, is a man of experience, quite capable of releasing these people to go about their business.

Such delays are not likely to occur at petty sessions, where one can expect to find sufficient members of the bench to deal with business, and it is for this reason this particular reform need apply only to stipendiary courts.

My final reform needs no Act of Parliament. It is that justices, particularly in certain metropolitan courts, should sit to time. Ten-thirty is the hour now appointed for the public business of the court to start—an hour and a half after most workers have "got down to it." There are, perhaps, not many serious offenders in this respect, but even a few minutes' delay in the morning seems to have a cumulative effect as the day wears on.

Lateness in the afternoon may sometimes be excused, where the morning session has been unduly prolonged, but many can remember occasions when the morning work has finished before noon, yet the occupant of the bench has strolled in 10, 20 or even 30 minutes late, and gazed benignly round a court packed to the doors with defendants and witnesses, without a word of apology. Judges are models of punctuality. Surely their lesser brethren should be free from a vice which, however unjustifiably, smacks of selfishness.

ANNUAL REPORT OF THE MINISTRY OF HEALTH

The annual report of the Ministry of Health for 1954 shows that the total cost of the services provided under the National Health Service Acts amounted, for England and Wales, to about £473 million. Contributions under the National Insurance scheme covered only about one-thirteenth of the cost. Payments by patients towards the cost of dental treatment, dentures and glasses amounted to about £11 million, and for drugs and appliances £6½ million. On the hospital service, it is satisfactory to note that the waiting lists showed a reduction of 5,564 by the end of the year, due to the improved use of the beds and other resources available. Capital development cost some £107 million.

The nursing position is still unsatisfactory. Although there was a reduction of 58 whole-time nurses there was an increase of 1,500 part-time. Special comment is made on the position of the elderly in mental hospitals. About 29 *per cent.* of the patients are aged 65 and over. Many of them are suffering from mental conditions which, although justifying admission to a mental hospital, soon clear up leaving residual disabilities which do not call for continuing psychiatric care and attention. It is suggested that some of these patients might be diverted to other more suitable hospitals, or, where appropriate, local authority accommodation.

The report for the previous year referred to the report on the Reception and Welfare of In-Patients in Hospital prepared by a committee of the Central Health Services Council. According to information obtained by the Ministry, matters in this connexion are improving and voluntary bodies have greatly helped with many types of activities. Hospitals are becoming increasingly aware of the importance of satisfactory arrangements for admitting patients and for giving adequate information to them and their relatives both about the working of the hospital and about their medical condition. It is emphasized that visiting arrangements are of great importance. The daily visiting of children is allowed at the majority of hospitals. It is difficult to appreciate why all hospitals cannot be more liberal in allowing visiting of children and it is to be hoped that the information given in the report will induce those who are now backward in this respect to improve their arrangements. In a considerable number of hospitals there is still opposition to children visiting adult patients and an age limit of 12 or 14 is not uncommon. One hospital uses a tape recording machine for conveying messages from children to their parents in hospital.

There was, after 1948, a considerable increase in the number of claims and legal proceedings against hospitals and their staff alleging negligence in the treatment of patients. But by the end of 1954 the peak seems to have been reached. The courts tend to make higher awards of damages; in the first nine months of the National Health Service the highest compensation payment was £1,000; in 1949/50 it was £3,375; in 1952/53 it was £11,740; and in 1953/54 it was nearly £12,500. There is no evidence that there has been any deterioration in the standard of service provided but several factors have probably contributed to the increase of claims. First, it has now to be accepted, in the light of recent court decisions, that in law a hospital authority is responsible for the negligence of all its agents and servants, including the medical staff. Secondly, the effect of the Legal Aid and Advice Act, 1949. Thirdly, many of the actions heard in recent years arose from causes occurring before the beginning of the National Health Service.

On hearing aids, it is noted that by the end of the year the number of people fitted with aids under the National Health Scheme was over 412,000. Another matter for satisfaction is that there is still a steady increase in the number of blood donors, reaching a total of 540,389, but a further increase of about 25 *per cent.* is needed to meet the probable growth of the demand.

The number of blood donations increased from 659,674 in 1953, to 700,202 in 1954, which exceeds by 30,000 the peak figure during the war. The number of male and female donors is practically equal. Their average age is 40 years.

Local Health Services

There was a slight fall in attendances at ante-natal and post-natal clinics but the number of children under one year old attending clinics was only 0·5 *per cent.* less, and there was no appreciable difference in the figures for children aged one to two years. The demand for home nurses continued to increase, and the domestic help service also continued to expand, especially for the aged and chronic sick.

Some local authorities have taken special action to implement the suggestions contained in Ministry of Health Circular 27/54 for the prevention of the break-up of families such as by the appointment of a problem family worker or a family case worker, or by the use of specially selected home helps. One authority has a Family Welfare Service which is designed to help people with their personal and family problems through three centres staffed by doctors and other trained workers.

Services for the Elderly

After describing the present position as to the provision of residential accommodation by local authorities, reference is made to the co-operation which is being achieved in some areas between county and district council in the care of the elderly, with the special object of enabling them to continue to live independent lives in their own homes. Where a district council, under housing powers, erects bungalows or grouped dwellings for the elderly, the county council may, with the consent of the Minister of Housing and Local Government, make a payment under s. 126 of the Local Government Act, 1948, towards the cost incurred by the district council for a resident warden at the grouped dwellings who undertakes certain supervisory duties in connexion with the welfare of the tenants. The warden's quarters contain some communal facilities—which are available should one or more of the old persons in the dwellings require assistance—for example, service of a daily main meal. It is explained in the report that the duties of the warden are in fact largely those of a "good neighbour." The annual payment made by the county council as welfare authority represents broadly the cost of providing the welfare facilities available for the old people, the expense of the warden and the maintenance of the communal rooms. The county council is generally consulted by the housing authority on the selection of tenants. Successful schemes of this nature are functioning in Somerset and Dorset; and several other county councils are exploring proposals on similar lines with the county district councils.

Welfare of Other Handicapped Persons

Progress in developing services for the deaf and hard of hearing and for other handicapped persons seems to be progressing slowly, but it is emphasized that in planning a co-ordinated scheme the need for effective liaison between statutory and voluntary services is of first importance. In a few areas, joint committees have been set up. A description is given in the report of the services most generally provided. Special reference is made to the organization of a week's holiday camp by the Norfolk Voluntary Association for the physically handicapped to which 185 physically handicapped persons with nearly 100 relatives or friends came from various parts of Britain.

Welfare of Old People in their Own Homes

The importance of enabling old people to go on living in their own homes is now generally recognized. It is shown in the report that the domiciliary services — both statutory and voluntary — are the key to this and if they are to be effective should complement each other in a co-ordinated partnership. Health visitors and home nurses are in a particularly favourable position to keep an eye on old people in the community who begin to show signs of infirmity and for making their need for a friendly visitor known to the voluntary committee concerned. It is emphasized that a strong voluntary visiting service is an important element in the network designed to provide practical help and friendly service of great variety for those who need it and to reduce the risk of old people living alone and unknown to those who might help them. It is pointed out that local authority members and officers who take an active interest in the work of the local voluntary committee do much by their support and understanding to promote co-ordination with health and welfare departments and to improve the coverage of the total service. The number of old people's welfare committees increased during the year from 1,050 to 1,150. The range of their activities is very wide, but it seems clear to the Ministry that the strengthening of the scope and quality of the visiting service is of first importance. The support of the King George VI Foundation is of great significance in this connexion, since a considerable sum has been made available to the National Old People's Welfare Committee to promote the training of those engaged in the care and welfare of old people, particularly voluntary workers.

During the year, schemes for laundries and night sitters-up increased. A corps of handymen enrolled in one area found their services much in demand and it is suggested that this very practical type of help may well be found to meet similar needs elsewhere. Some of the most popular services mentioned in the report are the holiday schemes organized mainly by voluntary bodies. There are signs that there is still need for more short-stay accommodation both for holidays and to relieve relatives for a short time of the care of elderly or infirm old people.

ADDITIONS TO COMMISSIONS

DURHAM COUNTY

Samuel Francis Greer, Parkwood, Hartburn, Stockton-on-Tees.

ESSEX COUNTY

Richard Hubert Courage, Fitzwalters, Shenfield.
William Tudor Davies, 35, Links Avenue, Gidea Park, Romford.
Mrs. Margaret Gilchrist Ercolani, 20, Nesta Road, Woodford Green.
Albert Jones, 20, Southey Walk, Tilbury.
Frederick James Jordan, B.E.M., Palmers School, Grays, Essex.
Sir Laurence Pierce Brooke Merriam, M.C., The White House, Langham, Colchester.
Frederick Robert Murray, 47, Ward Avenue, Grays.
Edward Stanley Price, 22, Denecroft Gardens, Little Thurrock, Grays.
Frederick William Sale, North Road, Great Yeldham.
Mrs. Dorothy Ellen Sincock, B.E.M., 388, Baddow Road, Chelmsford.
Donald Eric Tanton, Winters, Little Stambridge, Rochford.
Woodward George Walsham, Berwood, College Avenue, Grays.

FLINT COUNTY

Mrs. Lucy Gwendoline Burdekin, Woldstones, Hawarden.
Mrs. Emily May Charlotte Davies, 2, Bryn Hilyn, Mold.
Mrs. Elizabeth Hawley Higgins, Lane Farm, Bronington.
Mrs. Moyra Vaughan Richards, Tyn Llwyn, Mold.
Ernest Roberts, 9, Maes Gwynfryn, Gwespyr.
Glyn Elwyn Roberts, Caerfallwch, Rhosesmor, Mold.
Herbert Roberts, Fron Dirion, Ruthin Road, Mold.
Mrs. Kathleen Williams, 35, Bryn Road, Connah's Quay.
William Robert Williams, Gwerfil, Plastirion Avenue, Prestatyn.

LINCS. (PARTS OF HOLLAND) COUNTY

Marshall Godfrey Wattam Bannister, Beeches, Frampton, Boston, Lincs.
Mrs. Pauline Aymee Margaret Blackie, Wyberton Park, Boston, Lincs.

MISCELLANEOUS INFORMATION

LEICESTERSHIRE AND RUTLAND PROBATION REPORT

In his report for 1954, Mr. George L. Whomsley, senior probation officer for the Leicestershire and Rutland combined probation area, calls attention to the progressive increase in the number of probationers during the past four years. Despite the substantial increase, the figures of unsatisfactory cases, where other treatment became necessary, have been almost stationary.

There has been no downward trend, such as has been noted in many other areas, in the number of juveniles supervised. There is in this report the familiar complaint about the parental attitude. Even where parents have not shown indifference, there is often a tendency to shield the child, which can nullify the desired effect of supervision. The magistrates have found it useful to require parents to become sureties for the good behaviour of their children. When young people are required to reside in an approved home or hostel, the average cost is now £6 2*s.* 6*d.* in the former, and £3 13*s.* 6*d.* in the latter.

The idea that probation was for juveniles only had, we thought, been dispelled, but apparently it still exists. Mr. Whomsley illustrates this by a question put to a probation officer: "How are your naughty little boys?"

Of domestic work, Mr. Whomsley writes that no work is more rewarding. The total of all cases dealt with in four years was 1,701, with 424 cases known to have been reconciled.

Some general observations in the report cast doubts upon some of the so-called benefits of the present time.

"Some had hoped that 'the television' often installed (on the hire purchase system) would 'keep the children from trouble,' but social workers know the fallacy of this in the delinquent.

"Increased wages with relatively low working hours, bringing greater opportunity for leisure, have so often been found to prove more of a burden than a benefit. Mechanized industrial operations tend to inertia of mind which is transmitted into the 'leisure' hours of those with which the probation officer has to do.

"Nor have improved material conditions of every kind, estimable though many of them are, brought more to the individual than a sense of false security rather than the equipment for a fuller life in which personal initiative is the keynote."

Like many probation officers, indeed we believe most, Mr. Whomsley believes in a religious approach to the work, and he records much progress in the Probation Officers' Christian Fellowship, of which Mr. Frank Powell, the metropolitan magistrate, has become president.

COUNTY OF KENT—CHIEF CONSTABLE'S REPORT FOR 1954

On December 31, 1954, the actual strength of this force was 1,514 men and 37 women. The authorized establishment is 1,743 men and 45 women. During the year there was a net increase of 12 men in the actual strength. In spite of the considerable shortage of men, of 591 men who applied to join the force only 59 were accepted.

There was a decrease of 614 (5·6 *per cent.*) in the figure of recorded crimes, which totalled 10,446. Of these, 55·3 *per cent.* were detected. Breaking offences accounted for a considerable proportion of the net decrease. They totalled 1,852, which was 441 less than in 1953. Offences known to have been committed by juveniles also decreased, being 140 (8·7 *per cent.*) fewer than in 1953, and juvenile offenders were 120 (15·3 *per cent.*) fewer.

An unusually large number of murders (six) were committed in the county during 1954. The figures for 1952 and 1953 were two and one respectively.

Two thousand two hundred and sixteen persons were dealt with for indictable offences during the year. Of these, 663 were under 17 years of age and 668 were over 30. The balance was made up by 315 between 17 and 20 inclusive and 570 between 21 and 30 inclusive.

Police dogs were used on 99 occasions, many of them in connexion with serious crimes, and valuable help was given by them in a number of instances. There seems to be no doubt that there are many cases in which, if only a police dog can be brought quickly to the scene of a crime, valuable assistance can be given in tracing the author of the crime and many hours of investigation and research can thus be saved.

The total of persons dealt with for non-indictable offences was 9,399 in 1954 against 9,380 in 1953. These totals included 461 and 434 juveniles, respectively. There was a burst of activity on the part of those responsible for detecting and prosecuting people who are so mean as to operate wireless sets without a licence. This led to 390 prosecutions, the 1953 total being only 41. Six thousand four hundred and forty-two (if our arithmetic is correct) was the total of offenders against road traffic laws, and they included 1,006 charged with "driving dangerously, under influence, etc.". In another part of the report it is recorded that 58 persons were charged under s. 15 of the Road Traffic Act, 1930. Fifty were tried summarily, and of these 48 were convicted; eight elected to be tried by a jury and of these three were found Guilty and five Not Guilty. We have commented before on similar figures from other parts of the country.

Rural areas have problems which do not trouble urban ones. One hundred and seventy-five sheep and 220 poultry were killed and 154 sheep and 40 poultry were injured by worrying by dogs. Also nine cattle were similarly injured. One hundred and forty-eight dogs were traced as being responsible for these casualties, and 63 of them were destroyed.

Accompanying the report is a very full supplement on "Road Accidents in 1954." No attempt can be made here to deal with the wealth of detail which the supplement provides. There is the all too common story of an increase in accidents and casualties. The accident total of 13,109 is 706 more than in 1953 (an increase of 5·7 *per cent.*). The percentage increase on 1945 is 14·55. The rise in the casualty rate in Kent (3·2 *per cent.*) is less than that for Great Britain as a whole. That figure was 5·1 *per cent.* It is also true to say, of course, that accidents and casualties have not risen in anything like the same proportion as has the number of motor vehicles on the roads. The work of compiling this supplement must have occupied many hours of police time. It is to be hoped that the information derived from it and the use to which that information can be put justify this labour.

PLYMOUTH WEIGHTS AND MEASURES REPORT

The report of Mr. H. L. Stevenson, chief inspector for the city of Plymouth, for the year 1954-55, marks the end of his 42 years in the weights and measures service. It is natural that he should look back, and he has some interesting observations to make on the changes that have taken place in his time.

In the early years he says the sale of goods short in weight or measure was prevalent and contrived by various means, for example, lead foil wrappers for tea and specially loaded paper bags for sugar, each included in the weight of the article sold. Prior to 1922, with the exception of bread and coal, the sale of goods short in weight or measure was not an offence under the Weights and Measures Act. The Sale of Tea Act, 1922, was a step towards affording the purchasing public some measure of protection against sellers of short weight, and it is interesting to recall the use of lead foil wrappings—claimed to preserve the aromatic qualities of the tea—completely disappeared following the promulgation of this Act.

The passing of the Sale of Food (Weights and Measures) Act, 1926, added to the list of articles of food to be sold by weight or measure.

As an example of the way in which sale by weight can protect the public, Mr. Stevenson points out that one dram short weight on every ¼ *lb.* packet of tea sold in Plymouth during a year, would represent a cash loss of anything from £7,000 to £10,000.

There is an interesting item showing the delicacy of some of the modern weighing instruments. It has been noted that some instruments of precision are sometimes fixed and used in proximity to cash registers and refrigerators where there is almost constant vibration. Traders are advised that whilst this may not necessarily cause excessive wear and tear, it would be more conducive to accuracy and long life if such appliances were mounted on a firm base, free from such interference.

Mr. Stevenson notes that more housewives are now going to the butcher's shop instead of having their meat delivered, so that they can choose their joint, and see the weight and the price. Some butchers mark joints in the window with the total price. This may appeal to the housewife, but, as the report says, the practice could be used to mask the charging of more than the current competitive price per pound. Some butchers are using tickets showing both weight and price, and are no doubt gaining in trade thereby.

On the question of pre-packed foods the report includes the familiar and justifiable complaint about manufacturers and packers using a multitude of different weight and measure packs. Nonetheless, it is admitted that the Pre-packed Foods (Weights and Measures Marking) Order, 1950, has done much to eliminate unfair practices.

Offences relating to short weight in coal, prevalent in some parts of the country, are rare in Plymouth. Some improved methods of weighing by means of new types of instrument are referred to in the report.

The way in which serious fires occur through gross carelessness in handling explosives and dealing with petroleum spirit is shown by two examples. A fire occurred at a private dwelling-house. Subsequent

investigation disclosed that two boys, aged 8½ and 9 years respectively, had poured petrol from a 5-gallon drum along the passageway and set fire to it. After the fire had been extinguished, a search of the premises was carried out and in a kitchen were found two 4-gallon jerry cans and one 1-gallon can filled with petroleum spirit. There was also an empty 2-gallon can which had been used for petroleum spirit. In an outer lavatory was a leaking 1-gallon can containing petroleum spirit. Some 12 *ft.* along the passageway was a living room in which an open fire was burning.

The individual responsible for having the petroleum spirit on the premises was subsequently prosecuted.

Another fire occurred on premises registered for the keeping of mixed explosives (fireworks) for retail sale. Investigation disclosed that the shopkeeper's son was smoking whilst serving a customer with fireworks, when the ash from his cigarette fell into the open container and ignited the fireworks.

Complaints are frequently made about the provisions of the Shops Act, which impose closing hours, and these complaints seem to have a certain superficial justification. People say shopkeepers ought to be allowed to study the convenience of the public and to work as long hours as they choose so long as assistants are not overworked. It is also said sometimes that if a shop is lawfully open for the sale of certain articles there can be no harm in serving customers with other articles. There is another, sounder view, as shown in this report. " Shopkeepers who take advantage of the fact that they may keep open for the sale of these goods and who then sell other commodities, illegally, and for whose sale their competitors are required to close, are carrying on a most unfair form of trading. It is quite easy in such circumstances to attract customers from their normal suppliers and whilst this permissive type of law may be sound in logic and reason, it is difficult to administer with equity unless the shopkeeper realizes his obligation to his fellow traders."

At the end of his long career Mr. Stevenson is in the position of being able to say that in his experience the majority of traders are honest, only a small minority are not, whilst a somewhat larger number are, on occasions, negligent.

NORTHERN IRELAND PROBATION REPORT

The number of probation cases in the various districts of Northern Ireland fluctuates considerably from time to time, but the most noticeable increase in 1954 compared with 1953 was in the Londonderry area, the figures being 60 and 14 respectively.

Mr. C. A. Duke, senior probation officer, naturally attaches importance to the behaviour of probationers after the probation period has expired. Probation in Northern Ireland appears to have met with an encouraging degree of success. The report says: " It is rather difficult to obtain exact figures but a check made in Belfast showed that 133 persons appeared before the courts in 1954 who had been placed on probation during the years 1949 to 1953. From the information available it would appear that in Belfast over 80 *per cent.* of probationers have not come before the courts again and that the percentage is even higher in the other areas."

As in England, so in Northern Ireland, the attitude of parents of delinquent juveniles is a matter of concern. The practice of requiring parents to give security for good behaviour is being adopted, and it is felt that this policy will in the long run reduce juvenile delinquency. Many parents who seem unperturbed about the offences of their children begin to take notice and realize a measure of responsibility when there is a prospect of their having to pay something in case of further trouble.

There is another tribute in this report to the work of the Mayflower home at Plymouth. The success of this and similar training homes for mothers has been noted and efforts are being made to open a similar type of home in Belfast. The following suggestion, though a little startling, points a moral. " It is considered that some form of training for some fathers of families would not be out of place. Probation officers know from experience that many fathers show little interest in their wives and families, spending most of their spare time on outside pursuits and leaving the entire upbringing of the family to the mother."

Evidently the probation officers in Northern Ireland are recognized as social workers who are prepared to help in all sorts of ways. This report, after referring to the steady flow of matrimonial cases, tells of advice being sought about " rent, housing, rows with neighbours, refractory children, etc."

Northern Ireland has its problem of unemployment. The figures have remained fairly high, and it must often be difficult for probation officers to find work for probationers. However, during the year employment was found for 77 persons. Outside Belfast it is difficult to find work for probationers, especially in rural areas.

CITY OF CAMBRIDGE— CHIEF CONSTABLE'S REPORT FOR 1954

The " manpower " deficiency at the end of the year was only seven (six men and one woman), the authorized establishment being 161. What seems to be the usual small percentage of applicants were accepted during the year, four men out of 71. None of the five women applicants was accepted.

During the year, 1,735 indictable offences were reported to the police, but only 835 were accepted as crimes. This was 49 fewer than in 1953. Larceny of pedal cycles is said to remain a major problem and to have accounted for nearly 30 *per cent.* of the offences in 1954. University students, the principal losers, have been advised by the police about precautions which they could take to protect their property. It is recorded that during the year 3,172 bicycles were found in the streets by police or by private individuals.

Business people have also been advised by a crime prevention officer about the security of their premises and are said to have responded well to the advice given. Films on crime prevention have been shown during police talks to various organizations, youth clubs, guilds, etc. These talks maintain contact, and foster good relations, with the public.

One hundred and sixty-seven persons, including 45 juveniles, were proceeded against for indictable offences. This was a decrease of 42 on 1953. But 1,846 persons (513 more than in 1953) were proceeded against for non-indictable offences. Of this number in 1,646 cases the offence was one in relation to " traffic or highways."

There was an increase of 7·6 *per cent.* in the number of accidents involving death or personal injury, the total for 1954 being 537. In the account of the work of the traffic department it is recorded that the department reported 382 offences during the year, and figures are given which show that of these 234 were for exceeding the speed limit and only 49 for dangerous or careless driving. Presumably this implies that the speeding offences, though contrary to law, involved no element of careless or dangerous driving. During the year five persons were charged with being in charge of, or driving, motor vehicles while under the influence of drink. Three were tried summarily and were convicted. The other two elected to be tried by a jury and were acquitted. This may be just coincidence, or it may be another example of what is said by some observers to be the fact, that juries are reluctant to convict of this offence.

There is quite a lengthy extract given in this report from the chief constable's report to justices on licensing matters. In it attention is called to the fact that one or two licensees have failed to comply as strictly as they should with the requirement of s. 139 of the Licensing Act, 1953, which enacts that prostitutes shall not be allowed habitually to resort to licensed premises or make them their meeting place.

A plain warning is given that unless at the houses complained of there is some improvement in this respect the chief constable will object to the renewal of the licenses of these houses at the next brewster sessions. Complaint is also made of the condition of certain named premises and of the very poor accommodation which they provide for their tenants. The report states that " lack of trade cannot be admitted as an excuse for allowing a public house to fall below a reasonable standard. If it is thought uneconomic to keep a particular licensed house in a good state of repair because few people use it then the time has surely come when the licence should be given up or removed to an area of the city where there is a real demand for a public house." The report is not wholly critical. Most licensed premises were well conducted, and the brewers in several cases are congratulated on praiseworthy improvements which have transformed " dingy dreary drinking bars into cheerful and comfortable locals."

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 77.

A CHARGE UNDER s. 20, ROAD TRAFFIC ACT, 1930, DISMISSED

Cambridgeshire justices, sitting at Linton, had brought to their notice recently a case which appears to indicate a lacuna in the law relating to road traffic. A motorist was charged before them with failing to stop when required to do so by a police constable in uniform, contrary to s. 20 of the Road Traffic Act, 1930.

For the prosecution, evidence was given that three police officers were operating a traffic check in the centre of the village of Sawston through which the defendant was driving his car shortly after midnight. The check point was established within about 70 *yds.* of a bend round which the defendant drove, and one of the police officers standing near the centre of the road and facing the defendant's car, swung a red lamp from side to side. The defendant was said to have ignored the signal and to have driven on his way quite steadily until subsequently stopped by a police car. When asked why he had failed to stop, the defendant and his passengers (he had two other experienced motorists with him) stated that they were under the impression that they had passed the scene of an accident and that the signal they saw was intended to wave them on. The police officer who was operating the red lamp agreed that there was a possibility of a misunderstanding.

For the defence, it was pointed out that whilst the appendix to the Highway Code dealt exhaustively with signals to be given in daylight, no guidance was given as to what should be done at night. It was urged that the defendant and his passengers, who had a vague glimpse of one or two stationary vehicles and some people standing about, might reasonably have supposed that there had been an accident, that the situation was under control and that they were being warned to pass the scene carefully and then proceed on their way. The police officer with the lamp was in uniform, but the defendant said he was unable to distinguish the nature of the uniform and thought it might have been an ambulance driver. He pointed out that he was driving with dipped headlights, that there were no street lamps alight, that he was confronted with a moving lamp and was also negotiating a bend.

The prosecution submitted that a swinging lamp was the signal normally used by the police in such circumstances and had been the means of bringing other motorists to a standstill.

The magistrates, after hearing the defendant and his witnesses, dismissed the charge.

COMMENT

It was, of course, unfortunate that the check point was established within 70 *yds.* of a bend, but notwithstanding this, it would seem desirable to consider amplification of the Highway Code to prescribe a recognized form of night signal to communicate to a motorist travelling at night the necessity of stopping.

Mr. Charles Greenwood, solicitor, of Peterborough, who conducted the successful defence in the case reported above, and to whom the writer is greatly indebted, suggests that possibly a lamp might be moved in a vertical plane and not horizontally. R.L.H.

No. 78.

ANGLERS BEWARE

Two men pleaded guilty at Dartford magistrates' court recently when charged with fishing for fresh water fish in a lake at Dartford with an instrument, namely a rod and line, for which there was no licence in force, contrary to s. 63 of the Salmon and Fresh Water Fisheries Act, 1923, as extended by the Fresh Water Fisheries (Kent River Board Area) Order, 1951.

For the prosecution the clerk to the Kent River Board said that the Act as extended, applied to all water in the board's area. Application to take out a licence was analogous to the requirements in respect of a gun licence in that the licence fees were part of the revenue of the board and that even if the angler paid a fee to the owner of the water, he would still be liable for a licence obtainable from the River Board either directly or through one of the numerous agents who the board appointed to issue licences on its behalf.

When the prosecutor had completed his outline of the case, Mr. F. G. Hails, the clerk to the Dartford justices, to whom the writer is greatly indebted for this report, asked the prosecutor whether he would require a licence if he was to construct a pond in his own garden, stock it with goldfish and then fish for them with a rod and line. The prosecutor replied that he would, but urged that River Boards would always administer the Act with discretion !

Both defendants stated that they were completely ignorant of the regulation and the chairman in fining them £2 each, expressed the hope that the case might be publicized, in order that decent citizens might be made aware of their liabilities in the matter.

COMMENT

By s. 63 of the Act a person is guilty of an offence if in a fishery district he fishes for or takes salmon or trout otherwise than by means of an instrument which he is duly licensed to use for that purpose. Section 65 enacts that the Minister may by order extend these provisions to fresh water fish either generally or to such fresh water fish, to such waters and to such instruments as may be specified in the order. Provisions as to the granting of licences by River Boards are set out in s. 61 of the Act. R.L.H.

No. 79.

A DUSTMAN ACQUITTED

A refuse collector employed by Newcastle-under-Lyme corporation, was charged recently at the local magistrates' court with stealing from the corporation when their servant, a quantity of rags and metal value £5, contrary to s. 17 of the Larceny Act, 1916.

For the prosecution, evidence was given that the defendant was employed as the driver and supervisor of a corporation refuse waggon. The refuse collected from householders was to be taken to the corporation tip where it was to be partially sorted before being levelled with a bulldozer. Over a period of two weeks the defendant had taken rags and metal of the value of £5 from the dustbins and placed them in a sack at the rear of his waggon. He later took the rag and metal to his allotment and subsequently attempted to sell the same to a rag merchant, but was prevented from doing so by police intervention.

For the defence, evidence was called to show that this was not an isolated incident, but was in fact common practice throughout the country. Defendant, a man of good character, had carried on this practice quite openly, and when approached by the police had been quite frank in admitting the matter. He stated that he never considered he was stealing.

Mr. R. F. Rigby, solicitor, of Newcastle-under-Lyme, to whom the writer is greatly indebted for this report, and who conducted the defence, submitted that the prosecution must prove that the goods were the property of the corporation and that the act was done without claim of right made in good faith. On the former point it was suggested that the goods had been abandoned by the owner but that the property in them had not passed to the corporation. The goods therefore became vested in the defendant, he being the first person to appropriate them after abandonment. On the latter point the defence said that the onus of proof lay on the prosecution and that even if the defendant's alleged claim of right was unfounded in law or in fact the magistrates should dismiss the case.

COMMENT

There have been a number of cases of a similar character before the courts in the last few years and it cannot be said that the situation is wholly satisfactory.

It would appear that the magistrates reached the correct decision in the case reported above and that, in order to prevent abuses by their employees local authorities should, if they have not already done so, make it abundantly clear to those engaged in the collection of refuse what action they are to take in regard to articles which are found by them abandoned by their owners, but which nevertheless have a marketable value. R.L.H.

PENALTIES

West Bromwich—September, 1955. Neglecting children. Six months' imprisonment. Defendant, a man of 39 with a wife and six children, was stated to be fit and able-bodied but declined jobs at £12 a week when offered to him. The cost of maintenance of the children had fallen on the public.

Newcastle—September, 1955. Inflicting bodily harm. Fined £25. To pay £2 19*s.* costs. Defendant, a 17 year old boy, butted a 16 year old boy in the face with his head.

Newport—September, 1955. Inflicting grievous bodily harm. Fined £7 18*s.*, to pay £2 2*s.* costs. Defendant, a boy of 17, without the slightest provocation, hit a man in a washroom of a dance hall in the stomach and on the jaw. The man spent a week in hospital with a fractured jaw.

Beccles—September, 1955. Stealing onions. Three charges. One month's imprisonment each charge (concurrent). Defendant stole a total of 2 *cwt.* onions from three growers' gardens.

Berwick—September, 1955. (1) Careless driving. (2) Driving without "L" plates. (3) Not being accompanied by a qualified driver. Fined a total of £7 and licence endorsed. Defendant, a 21 year old student, received a double skull fracture, double jaw fracture, broken nose, broken collar bone, severe shock and lacerations, when his sports car uprooted a hedge for 68 *ft.*, snapped a telegraph pole and overturned against a wall.

Taunton—September, 1955. Throwing a beer bottle from a railway carriage. Fined £1.

Norwich—September, 1955. Driving a fire engine carelessly. Fined £3. The engine which knocked over a lamp standard, was on its way to a public fire fighting demonstration in front of the City Hall during Norwich Civic Week.

Cardiff—September, 1955. Malicious wounding. Fined £20, to pay £5 costs. Defendant, a 20 year old airman, was stated to have stood and laughed when he shot a 10 year old boy in the arm with an air rifle.

Cardiff—September, 1955. (1) Forging a driving licence. (2) Driving a car without a licence. (1) Fined £25. (2) Fined £1, to pay £1 4*s.* 5*d.* costs.

PERSONALIA

APPOINTMENTS

Mr. R. S. Bacon, Chief Justice, Gibraltar, has been appointed Justice of Appeal in the East African Court of Appeal, with the Queen's approval. Mr. Bacon became Chief Justice of Gibraltar in 1946.

Mr. J. H. Morris took up duty as an assistant solicitor with the East Sussex county council on September 26, last. A prior notice was given of his new appointment in our issue of September 24. Apart from his service with Northants. county council, Mr. Morris was, from December, 1948, to February, 1951, a legal assistant in the office of the clerk of the Herefordshire county council. He has succeeded at Lewes Mr. D. R. Walden-Jones, M.A., who has taken over from Mr. A. W. Perkins as clerk to Chailey, East Sussex, rural district council.

Mr. Ronald Pagan is to be official receiver in bankruptcy for Canterbury, Rochester and Maidstone, in the county of Kent, in succession to Mr. Arthur N. Lander, official receiver since 1947, who is retiring. Mr. Pagan's appointment took effect from October 1.

RETIREMENTS

Mr. Douglas S. Harrison, clerk to Elham rural district council, Kent, for the past 28 years, is retiring.

Mr. O. W. Haylock, deputy clerk and rating and valuation officer to Erpingham, Norfolk, rural district council, is resigning from his post this month. Mr. Haylock worked on the staff of Saffron Walden, Essex, rural district council, before obtaining his present appointment.

Mr. J. E. Morgan, chief clerk at the Welshpool offices of Montgomeryshire county council and chief assistant to the clerk of the peace for the county, retires this month after 40 years' service to the county council. Mr. Morgan had never missed a court of quarter sessions for 36 years.

OBITUARY

Mr. Henry Hayes Vowles, who was clerk to Gloucestershire county magistrates from 1926 until 1950, has died at the age of 77.

BOOKS AND PAPERS RECEIVED

Memorandum by the Home Office on the care of children, under five years of age. Dated September 20, 1955.

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

MONEY LENDERS ACT—APPROPRIATION OF PENALTIES

With reference to P.P. 6, which appeared in the edition dated September 10 of your journal, concerning the appropriation of penalties imposed under the Money Lenders Act, 1927, I recently had occasion to seek the advice of the Home Office upon the very same matter.

Their ruling was that fines imposed under the Money Lenders Act, 1927, and the Firearms Act, 1937, do not constitute "exchequer monies" within the meaning of s. 27 of the Justices of the Peace Act, 1949, and, should therefore be included in part III of the Return. I thought you and your inquirer might probably like to know this.

Yours faithfully,
S. C. V. SOAMES.

Bampton-West Petty Sessional Division,
Sheep Street,
Burford, Oxon.

REVIEWS

A First Book of English Law. O. Hood Phillips. Third Edition. London: Sweet & Maxwell, Ltd. London. Price 17s. 6d. net.

We reviewed this book in 1953, when the second edition appeared. Professor Phillips has brought it up to date as at the end of 1954, and we still think it an excellent "first book." The learned author's footnotes are invariably helpful, and his statements of the law are plain and comprehensible. We still wish, as we said in 1953, that the publishers would provide full references to cases; these would be more useful than the regnal years given in the table of statutes, which the student seldom needs. Otherwise, we have no adverse comment. It is an excellent little book for the limited purpose that its title indicates.

INTOLERANCE

The spirit that animated the recent Geneva Conference, widely acclaimed as " the New Look in diplomacy," is based upon principles which were enunciated over a century ago, in memorable words, by Mrs. Sarah Gamp:

> " Some people may be Rooshans, and others may be Prooshans; they are born so, and will please themselves. Them which is of other naturs thinks different."

The plea for peaceful coexistence could scarcely be more eloquently expressed. It is devoutly to be hoped that at their forthcoming deliberations the Foreign Ministers, who have for so long been separated by Iron Curtains, Dollar Gaps, Trade Barriers, Colour Bars and other heterogeneous obstacles, may be actuated by the same high-minded ideals.

Such being the aspirations of all mankind, it is regrettable that, in this free country of ours, the *desideratum* of mutual tolerance should still remain unfulfilled in certain important respects. A Welfare State, ostensibly aiming at the greatest good for the greatest number, ought not to penalize any resident within its borders on account of his religious tenets or the social customs permitted by his domicil of origin. This principle should apply with particular force to the National Insurance Acts, by which a benevolent Legislature has sought to secure its people against all the vicissitudes of human fortune from the cradle to the grave.

For one section of the community this security has been rudely shattered by a recent ruling. The wife of a Pakistani, resident in the United Kingdom, has lately given birth to her seventh child. An application for the statutory maternity benefit was refused on the startling ground that " the National Insurance Acts do not recognize a marriage conducted under a custom which permits polygyny." Such a marriage, it seems, does not enable a woman to be regarded as a wife within the meaning of the Act, nor for the father of the child to be treated as her husband. It is noteworthy that the applicant in question has only one wife—the mother of the newly-born infant ; non-recognition by the National Insurance Authorities arises from the *type* of marriage permitted by Islamic law. The Imam of the London Mosque, of which the applicant is a member, has rightly protested against a decision which deprives Muslims of their legitimate rights, merely because their national religion, in exceptional circumstances, permits polygyny, notwithstanding that that religion also enjoins its followers to obey the law of the land in which they live

It is right to mention that, in a forthcoming survey of the National Insurance legislation, this anomaly is to be reviewed. Meanwhile the case presents some nice problems for students of private international law. This is not the place to enter into a dissertation on this difficult subject, which every so often elicits from our Courts decisions and pronouncements which it is hard to reconcile with precedent. Problems have ranged over marriage customs of domiciled Muslims and Hindus, Chinese, Mormons and African tribes. The well-known *dictum* of Lord Penzance in *Hyde* v. *Hyde* (1866), L.R. 1, P. & D. 130—" Marriage, as understood in Christendom, may be defined as the voluntary union for life of one man and one woman, to the exclusion of all others "—is no doubt good law; but it is certainly not accurate from the point of view of history, sociology or anthropology. The Finnish anthropologist, Westermarck, has reminded us that, " apart from such isolated cases as those of the Anabaptists and the Mormons, polygyny was legally practised and accepted by the Church in the Middle Ages, and occurs sporadically as a legal institution, accepted by Church and State, as recently as the mid-seventeenth century." The eighth century Christian Emperor Charlemagne had two lawful wives. In 1650, when the population of Bavaria had been greatly reduced by the Thirty Years' War, the legislative assembly at Nuremberg enacted that every man should be permitted to marry two women. As late as the 1770's Frederick William II of Prussia, during the lifetime of his second royal consort, bigamously contracted two morganatic marriages, with the blessing of the Lutheran Church. Even in Western Europe the strictly monogamous view of marriage is a comparatively recent development. In certain female circles in the United States—a modern matriarchy—the frequent changing of spouses, in rapid succession, after a perfunctory divorce, amounts virtually to a system of polyandry, accepted by society and tolerated by law.

All this shows that we have little reason, in this matter of social customs, to give ourselves such superior airs. The recent refusal of National Insurance benefit to the spouses under a Muslim marriage makes us wonder how many (or how few) surviving spouses of the Old Testament patriarchs would have qualified for widows' pensions. We are reminded of the story told of a famous legal wit. On being informed that some of his colleagues were refusing divorce work on religious grounds, he remarked that the next thing we should hear was that some learned judge who happened to be a Unitarian would decline to sit with the Brethren of Trinity House. If this kind of prejudice is to be perpetuated, where is it going to stop ? Is sickness benefit to be refused to a Christian Scientist because he holds that ill-health is an " unreality " ? Is the Buddhist to be deprived of unemployment relief on the ground that he believes the supreme good to lie in " non-action " ? And, where the State leads, private enterprise will follow. No devout Parsee will be able to secure fire-insurance cover for his property, since he must go once a year to his Temple to worship the sacred flame. Eventually, if the trend persists to its logical conclusion, even the teetotaller will find that his house is uninsurable against the risk of floods. The sooner these intolerant prejudices are subjected to a dose of Mrs. Gamp's sturdy commonsense, the better for all concerned. A.L.P.

One wonders if weighty opinions were taken
One wonders if any were taken at all
Before the decision was duly arrived at
And solemnly England took over Rockall.
J.P.C.

There's a law don in Oxford
Who thinks that he's seen
A case in the law-books
Called B and Maclean.
J.P.C.

" Opinions were equally divided "
And that is why both sides decided
That they'd fight.

Did " Wiser counsels prevail " ?
Surely one side was bound to fail ?
But neither was right.
J.P.C.

You note your Instructing Solicitors stress
That they " are concerned for Mr. S."
And as you read you are quick to learn
That there's every reason for their concern.
J.P.C.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Bastardy—*Ordering excess of statutory limit—Remedy.*

On September 7, 1953, the justices after hearing the evidence of Miss W, a single woman, which was duly corroborated, made a bastardy order against Mr. R whereby he was ordered to pay the sum of £2 per week to Miss W through the court collecting officer for the maintenance and education of her illegitimate child. Mr. R has regularly maintained his payments under the order since that date. The justices in making the order, of course, acted in excess of jurisdiction in that the maximum weekly payment under a bastardy order under the Affiliation Orders Act, 1952, is 30*s.* a week. The order in other respects appears to have been properly made.

I shall be pleased to receive your answers to the following questions:

1. Is the order wholly bad?

2. If not, what steps can be taken to correct the irregularity?

3. Assuming the order is varied to the maximum permitted 30*s.*, should the defendant be given credit for previous excess payments against future sums that become due? I have scoured the authorities but the only case which appears to be in the least way helpful is *R.* v. *Green* (1851), 20 L.J.M.C. 168; *sub nom. ex parte Coley*, 15 J.P. 420; 3 Digest 401, 345. SILDAN.

Answer.

1. No, the adjudication of paternity is good, and only the provision as to the amount is bad.

2. No doubt application could be made to the High Court for an order of *certiorari*. Another step which might be taken would be to appeal to quarter sessions (if quarter sessions would allow service of notice after this lapse of time) and quarter sessions would make the correct order. A third course would be to apply to the magistrates' court to vary the order. We incline to the view that appeal to quarter sessions is the best course.

3. Possibly as a matter of law, and certainly as a matter of fairness we think he should be given credit. If possible, convenient terms should be arranged with the mother of the child.

2.—Election—*Nomination paper—Signature or subscription in block letters.*

Bearing in mind the possibility of forgery, can a nomination paper in a rural district council election be declared valid which is subscribed by the proposers' and seconders' full names printed throughout in block letters, with no signatures?

Answer.

The Election Rules, S.I. 1951, No. 266, say that the nomination paper is to be "subscribed." Rule 6 (2) speaks of "signatures" instead of "subscriptions," as if the two words were synonymous, and the form in the appendix calls the proposer and seconder "the undersigned." Nevertheless, we think that (if there is a difference) the effect is to admit a block letter "signature"; in any event, a man is entitled to print his name if he so chooses, nor is he bound to use the same form of signature or the same sort of script on all occasions. Moreover, unless the returning officer is familiar with the signatures, John Doe can write "Richard Roe" if he will take the risk, so that even normal cursive signatures are no real safeguard against fraud.

3.—Guardianship of Infants—*Illegitimate child of married woman—Maintenance and custody.*

We act for a woman, who while her former marriage was subsisting, gave birth to an illegitimate child. Subsequently she married the father, with whom she had been cohabitating until fairly recently. The father has threatened to take the child away and has in fact attempted to do so on one occasion when he was allowed to take her out for the afternoon. We have read your reply to P.P. 2 in the issue of March 26, 1955. Our client wishes to obtain maintenance for the child and to ensure that some order is made to stop the father taking the child away, even though it would appear he has no right to do so. As far as we can see our client cannot bring any proceedings for maintenance of the child and the only remedy open to her is by way of injunction in the High Court to stop the father taking the child away. Can you suggest any other remedy to us please?

TONCAL.

Answer.

We agree that so long as she remains the wife of the child's father she cannot take proceedings against him for an affiliation order, and we are of opinion that she cannot proceed under the Guardianship of Infants Acts. We cannot suggest any remedy other than an injunction, unless application is made to the High Court under the Guardianship of Infants Acts, when the learned Judge would decide if those Acts applied.

4.—Licensing—*Affixing notice of application on door of church or chapel of parish or place—Identification of parish church—Licensing Act*, 1953, *sch.* 3, *part I, para.* 1 (*b*).

My division comprises four metropolitan boroughs, and for many years past it has been the custom to exhibit notices of application for new licences at the main church in each borough and this procedure has never been challenged. During last brewster sessions a number of such notices were exhibited at small parish churches in the division which number several dozen, and it is impossible to ascertain without considerable research, whether the premises concerned are or are not within the parochial boundaries of such churches.

Having regard to *R.* v. *Smethwick Confirming Authority, ex parte Holt Brewery Co., Ltd.* (1929) 93 J.P. 233, is it your opinion that either of these two methods of exhibition is due compliance with para. 1 (*b*) of part I of sch. 3 of the Licensing Act, 1953, or should the notices be exhibited at the obscure parish churches and the onus placed on the applicant of proving that the premises concerned are within the parochial boundaries of such churches?

N. ELMO.

Answer.

In our opinion, the notice should be affixed on the door of the parish church, even if this church is "obscure," and even if there is some other church in the locality large enough to be denominated the "main church." In our opinion, the onus is on the applicant to ascertain which parish church is that of the parish in which the premises are situated, and licensing justices need seek no better proof, in the absence of challenge, than a statement from the person who affixed the notice that he affixed it on the door of the church of the parish.

In *R.* v. *Smethwick Confirming Authority, ex parte Holt Brewery Co., Ltd.* (1929) 93 J.P. 233, the situation was peculiar in that the church actually serving the needs of the parish was an unconsecrated building and had not the status of the parish church. It was held in these circumstances that the notice was properly affixed on the door of the church of the place, *i.e.*, of Smethwick. It is possible that the High Court would extend the principle of the *Smethwick* case if, in conditions as outlined by our correspondent, there was genuine confusion regarding the exact boundaries of an ecclesiastical parish; but, for the present, we do not think that the *Smethwick* case is authority for the statement that the parish church may be avoided in favour of the "main church" of the locality.

5.—Local Government—*Term of office—Fraction of a day.*

X council retires *en bloc* every third year. The Local Government Act, 1933, as amended, says that the old members go out of office on May 20, and the new members take over on the same day. In the event of its being necessary to convene a meeting of the council on May 20, which set of members is summoned?

Answer.

In answering a P.P. at 113 J.P.N. 380, we said we had not found a judicial decision directly in point, and this is still so. We also said that some textbooks had taken the view that the usual rule applied, so that the changeover would come at midnight of May 19. Since the annual meeting can be held on May 20, by virtue of r. 1 (2) in part III of sch. 3 to the Local Government Act, 1933, and obviously the councillors to attend that meeting must be the new councillors, the above stated view seems correct. (One reason for the absence of authority may be that in practice councils have avoided meeting on that day: *cp.* our earlier answer.)

6.—Magistrates—*Practice and procedure—Carnal knowledge of girl between* 13 *and* 16*—Consideration by justices of defence of reasonable belief that girl was over* 16.

We are concerned in the case of a man under 23 years of age, who has been charged with carnal knowledge of a girl between 13 and 16 years, contrary to s. 5 of the Criminal Law Amendment Act, 1885. The question has arisen as to whether the defence of reasonable belief that the girl was over 16 years of age, available by virtue of the Criminal Law Amendment Act, 1922, is a matter solely for the jury, and never for the examining justices. The information

in *Archbold*, 32nd edn., p. 1066, might be read as meaning that only a jury can entertain this defence, but having carefully digested the case quoted therein, namely, *R.* v. *Forde* (1923) 87 J.P. 76, we are inclined to think that Mr. Justice Avory's remarks should be interpreted as meaning that *upon trial*, this particular defence is a question of fact for the jury, as distinct from the judge.

We feel that the examining justices can quite properly consider evidence of the accused and his witnesses appertaining to this defence, and if, in the light of all the evidence, they come to the conclusion that the accused had reasonable cause to believe that the girl was over 16, they may, on extremely rare occasions (bearing in mind P.P. 12, 117 J.P.N. 143 and P.P. 4, 119 J.P.N. 31) find that there is no *prima facie* case, and discharge the accused in accordance with s. 7 of the Magistrates' Courts Act, 1952. Is not our view supported by the remarks in *R.* v. *Forde* regarding the construction of the words "court or jury" contained in the repealed first proviso to the Criminal Law Amendment Act, 1885?

SEDESS.

Answer.

This is a difficult question which we approach having firmly in mind that examining justices must not usurp the functions of the jury.

We agree that the observations of Avory, J., in *R.* v. *Forde*, *supra*, give some support to the contention that this defence is a matter which justices can consider, and there may be very rare cases in which it is proper for them to refuse to commit on this ground. But we do feel that unless the defence evidence is in no way challenged by the prosecution (in which event it seems to us likely that the prosecution would not continue to ask for committal) justices should commit for trial and leave this issue to the jury.

7.—Open Spaces—*Parish council as local authority—Limited or temporary investment by county council.*

A parish council have requested the county council to make an order under s. 1 of the Open Spaces Act, 1906, conferring the powers of that Act upon them. The reason is to enable the parish council to remove certain tombstones in a closed churchyard for which they are responsible. I should value your opinion as to whether the county council may:

1. Make the order so as to limit the powers which the parish council will enjoy to s. 11 of the Act—the relevant section regarding the removal of tombstones.
2. Make the order so as to limit the period during which the powers of the Act will be enjoyed by the parish council.
3. Revoke the order at such time as they consider desirable.

BACAM.

Answer.

In our opinion, none of these three courses can be followed. The scheme of s. 1 is, we consider, that a parish council shall (subject to restrictions on its powers *aliunde*) stand on the same footing as any of the local authorities invested with powers directly by the Act itself.

8.—Police—*Bail by, before charge preferred—Procedure.*

By s. 38 (2) of the Magistrates' Courts Acts, 1952, "Where, on a person's being taken into custody for an offence without a warrant, it appears to any such officer as aforesaid that the inquiry into the case cannot be completed forthwith, he may release that person on his entering into a recognizance, with or without sureties, for a reasonable amount, conditioned for his appearance at such a time as is named in the recognizance unless he previously receives a notice in writing from the officer in charge of that police station that his attendance is not required; and any such recognizance may be enforced as if it were conditioned for the appearance of that person before a magistrates' court for the petty sessions area in which the police station named in the recognizance is situated."

It appears to be contended by certain police officers that an accused person may be taken into custody without any charge being formulated or made against him, such explanations as being taken into custody on a "delayed charge" and the like being used. What is the correct construction of this provision? Must an accused person be properly and formally charged, and a charge properly formulated and entered on the charge sheet, or can a person under this provision be detained without a charge being made, or with some vague indication of a charge being given to the accused person? Are there any authorities on the interpretation of this statutory provision?

SADWAY.

Answer.

The question, under s. 38 (2), is not one of detention, but of release on bail. It does not appear to require that a charge should be formally made or entered on a charge sheet. The situation dealt with is one in which the question whether a charge should be made or not cannot be determined at once, and therefore it is likely that the precise form of the possible charge is also in doubt. The important point is that the police must be prepared to justify the arrest for a suspected offence on reasonable grounds. Naturally the person arrested must be told the offence that is suspected and what may be the charge or the alternative charges. For instance, a man may be arrested on suspicion of stealing a car, but the offence might be only taking and driving it away. On his part, he may assert he has authority to take it, and as the owner is away and cannot be communicated with at once, the police do not know whether a charge of either offence will in the result be preferred. They decide instead of making a charge to release the man under s. 38, and do not at that stage use a charge sheet.

We know of no authorities on this point.

9.—Road Traffic Acts—*Driving while disqualified—No need to show knowledge of the disqualification—Need for strict proof that defendant was disqualified.*

A is charged with, *inter alia*, driving a motor car whilst disqualified from so doing. It appears that he was represented by a solicitor on the hearing of the summonses out of which the disqualification arose and that he was not notified either by his solicitor or by the court that he had been disqualified. Are there any decided cases to show whether this can be an absolute defence (due to the absence of *mens rea*) or merely a special reason for not imposing imprisonment? It is considered that the prosecution should be put to strict proof of the disqualification and that mere production of a certified copy of the court record would not be sufficient in itself in the absence of evidence that the defendant is the person referred to in the court record. Do you agree? If so, what is the normal method of strict proof in such cases?

J.B.W.L.

Answer.

(*a*) Knowledge of the disqualification need not be proved (*Taylor* v. *Kenyon* [1952] 2 All E.R. 726; 116 J.P. 599).

(*b*) The disqualification of the defendant must be strictly proved. Presumably a court would not deal with so grave an offence in the defendant's absence and it should be possible to call someone who was concerned in the previous case and who can both identify the defendant and say that the conviction in the certified copy relates to him. Section 33 (2) Road Traffic Act, 1934, and *Martin* v. *White* (1910) 74 J.P. 106, may be of assistance.

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. (*contd.*)

LANCS NO. 11 COMBINED PROBATION AREA

APPLICATIONS are invited for the appointment of a whole-time Male Probation Officer.

Applicants must be not less than 23 nor more than 40 years of age, except in the case of serving Probation Officers.

The appointment will be subject to the Probation Rules, 1949-54, and the salary in accordance with the prescribed scale.

The successful applicant will be required to pass a medical examination for the purpose of superannuation.

The person appointed will be assigned to St. Helens Borough and will be stationed at St. Helens.

Applications, giving details of age, experience, and present position, together with not more than two recent testimonials, to be sent to the undersigned not later than October 22, 1955.

W. McCULLEY,
Secretary to the Probation Committee.

Town Hall,
St. Helens.

COUNTY BOROUGH OF EAST HAM

Appointment of Female Probation Officer

APPLICATIONS are invited for the appointment of a full-time Female Probation Officer.

Applicants must be not less than 23 nor more than 40 years of age, except in the case of a serving probation officer.

The appointment will be subject to the Probation Rules, 1949 to 1955, and the salary will be in accordance with the prescribed scale.

The successful applicant will be required to pass a medical examination.

Applications, stating age, present position, qualifications and experience, together with the names of two referees, must reach the undersigned not later than October 22, 1955.

E. S. GONNING,
Secretary to the Probation Committee.

East Ham Magistrates' Court,
Town Hall,
London, E.6.

LANCASHIRE MAGISTRATES' COURTS COMMITTEE

Manchester Petty Sessional Division

Appointment of Assistant Solicitor

APPLICATIONS are invited for the above appointment from solicitors or persons awaiting admission. A knowledge of Magisterial Law and Practice or some experience as an advocate is desirable.

The salary will be in accordance with the National Joint Council Scales, dependent on when the applicant was admitted *i.e.*, £690—£900.

The appointment is superannuable and subject to a medical examination.

Applications, stating age, qualifications, experience, and particulars of positions held in recent years, with the names and addresses of three persons to whom reference may be made, and endorsed "Assistant Solicitor," must reach the undersigned not later than October 15, 1955.

G. S. GREEN,
Clerk to the Justices.

County Magistrates' Court,
Strangeways,
Manchester, 3.

MIDLANDS ELECTRICITY BOARD

Appointment of Assistant Solicitor

APPLICATIONS are invited for the above appointment at a salary between £870/£1,080 per annum, according to experience. Applicants should have a sound knowledge of conveyancing and common law. The duties will include advocacy.

Apply in writing, stating age, experience, present position and salary, within 14 days, to the Secretary (Ref.: FWC), Midlands Electricity Board, Mucklow Hill, Halesowen, Nr. Birmingham.

A. STEPHENS,
Secretary.

September 30, 1955.

STAINES URBAN DISTRICT COUNCIL

(Pop.: 41,050. R.V.: £432,172. Area: 8,271 acres)

Appointment of Deputy Clerk and Solicitor

APPLICATIONS are invited from Solicitors for the above appointment. Salary £1,107 10*s.* × £50—£1,307 10*s.* Conditions of service for Chief Officers (other than Town Clerks and Clerks of District Councils) apply. Further particulars and form of application obtainable from the undersigned. Applications to be received not later than October 21, 1955.

F. ENTWISTLE,
Clerk of the Council.

"Elmsleigh,"
73 High Street,
Staines, Middlesex.

METROPOLITAN BOROUGH OF ISLINGTON

ASSISTANT Solicitor required, salary Grade A.P.T. V (£750 × £30—£900), plus London "weighting" of £20 or £30 per annum according to age.

Applicants should have experience of conveyancing and advocacy. Previous local government experience will be an advantage but is not essential.

Applications, stating age, qualifications, particulars of present and previous appointments and general experience, accompanied by the names of two referees, must be delivered to the undersigned by not later than October 22, 1955.

The Council are unable to provide housing accommodation for the successful applicant.

H. DIXON CLARK,
Town Clerk.

Town Hall,
Upper Street, N.1.

COUNTY BOROUGH OF READING

ASSISTANT Solicitor required at special salary scale of £690 × £30—£900, commencing salary according to qualifications and experience. Applications giving age, education, previous appointments held, and names and addresses of two referees, to be received by October 21.

G. F. DARLOW,
Town Clerk.

Town Hall,
Reading.

October 7, 1955.

Amended Advertisement

URBAN DISTRICT OF CHERTSEY

Clerk's Department

Appointment of Land Charges and General Clerk

APPLICATIONS are invited for the above established appointment from male persons with experience in local land charges work and general administration of a clerk's department at a salary in accordance with the Clerical Division of the National Scales. The commencing salary will be fixed within the grade according to the capabilities and experience of the successful candidates.

Applications must be made on the official form, which together with further particulars and conditions of appointment can be obtained from the undersigned, to whom applications should be delivered not later than Friday, October 14, 1955.

A. REX HERBERT,
Clerk of the Council.

Council Offices,
Chertsey, Surrey.

BERKSHIRE MAGISTRATES' COURTS COMMITTEE

County Petty Sessional Divisions of the Forest, Reading and Windsor

APPLICATIONS are invited for a Senior Court Assistant in the offices of the Clerk to the Justices of the above Divisions. Applicants should possess considerable experience of the work of a justices' clerk's office.

Salary £600 × £25—£725 per annum. N.J.C. Conditions for staff of local authorities will apply pending National Conditions of Service of Justices' Clerks' Assistants, and the post is superannuable.

Applications, stating age, present salary, particulars of experience, together with the names of two referees, should reach the undersigned not later than October 21, 1955.

E. R. DAVIES,
Clerk of the Committee.

Shire Hall,
Reading.

BOROUGH OF WIMBLEDON

Temporary Assistant Solicitor

APPLICATIONS are invited for the post of Temporary Assistant Solicitor. Salary £690 × £30—£900, according to age and ability. London Weighting (£30) in addition. The post is superannuable.

Applicants must have a good knowledge and experience of conveyancing and the preparation of contracts and agreements of all kinds. Previous Local Government experience will be an advantage.

Applications, giving age, education, particulars of experience, and the names of two referees, should reach the undersigned not later than October 28, 1955. Housing accommodation cannot be offered. Canvassing disqualifies.

FRANCIS J. O'DOWD,
Town Clerk.

Town Hall,
Wimbledon, S.W.19.

CITY OF LEICESTER

Appointment of Probation Officer

APPLICATIONS are invited from trained men or women for the appointment as a Probation Officer for this City. The appointment will be subject to the Probation Rules and the salary will be in accordance with the scale provided under those Rules.

Applications, stating age, qualifications, experience, and present salary (if already serving), and accompanied by not more than two recent testimonials, must reach the undersigned before October 21, 1955.

W. E. BLAKE CARN.

Town Hall,
Leicester.

BOROUGH OF BEXLEY

Senior Assistant Solicitor

APPLICATIONS are invited for this appointment under N.J.C. service conditions at a salary in accordance with Grade A.P.T. VI, but commencing at not less than £930 per annum, plus London Weighting. Preference will be given to applicants with at least three years' legal experience in a municipal office.

Forms of application, with conditions of appointment, may be obtained from the undersigned, to whom completed applications must be returned by October 25, 1955. Canvassing will disqualify.

ARTHUR GOLDFINCH,
Town Clerk.

Council Offices,
Bexleyheath,
Kent.

URBAN DISTRICT COUNCIL OF HUYTON-WITH-ROBY

ASSISTANT Solicitor required. Salary grade £690—£900 per annum. National Conditions of Service and Local Government Superannuation Acts apply.

Applications, stating age, date of admission and experience, and names of at least two referees, to be addressed to the undersigned not later than October 25, 1955.

Canvassing disqualifies.

H. E. H. LAWTON,
Clerk of the Council.

Council Offices,
Huyton,
Lancashire.

APPOINTMENTS

LONDON COUNTY COUNCIL invites Solicitors to apply for permanent and temporary appointments. Commencing salary £810 if admitted under one year, £843 15*s.* one year but less than two, £877 10*s.* two years or more, rising by £33 15*s.* to £945. Superannuation scheme. Good opportunities for advocacy. Persons temporarily engaged eligible to apply for subsequent permanent vacancies. For details and application form (for return by October 24) send stamped address envelope to Solicitor ("Solicitor Assistant"), County Hall, S.E.1. (1598).

Amended Advertisement

COVENTRY CORPORATION require Senior Law Clerk. Salary A.P.T. IV (£675—£825) according to qualifications and experience, plus £26 on salaries up to £751. Considerable experience in conveyancing, including compulsory purchase orders, preparation of contracts, mortgages under S.D.A. Acts, etc., essential. Other things being equal, preference given to candidates with law degree or other suitable qualification by examination. Housing accommodation may be provided. Applications, stating age and experience, with names of two referees, to Town Clerk, Council House, Coventry, by October 15, 1955.

KENT PROBATION COMMITTEE requires Male Probation Officer. Salary and appointment in accordance with Probation Rules, 1949-55. Applicants must be not less than 23 nor more than 40 years of age. Post superannuable. Medical examination. Applications, stating age, qualifications and experience, with copies of not more than three testimonials, to Deputy Clerk of the Peace, County Hall, Maidstone, by October 15, 1955.

INQUIRIES

YORKSHIRE DETECTIVE BUREAU (T. E. Hoyland, Ex-Detective Sergeant) Member of The Association of British Detectives, World Secret Service Association and Associated American Detective Agencies. DIVORCE — OBSERVATIONS — ENQUIRIES—Civil and Criminal investigations anywhere. Over 1,000 Agents. Over 27 years C.I.D. and Private Detective Experience at your Service. Empire House, 10, Piccadilly, Bradford. Tel. 25129. (After office hours, 26823.) Established 1945.

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CHESTER.—HARPER, WEBB & CO., Chartered Surveyors, Rating Specialists, 35 White Friars, Chester. Tel. 20685.

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DEVON

AXMINSTER. — ARNOLD L. BALDOCK, B.Sc., A.R.I.C.S., Chartered Surveyor, Valuer, Land Agent, Shute, Axminster. Tel. 2388.

EXETER.—RIPPON, BOSWELL & CO., F.A.I., 8 Queen Street, Exeter. Est. 1884. Tel. 59378.

EXMOUTH.—PURNELL, DANIELL & MORRELL, 7 Exeter Road. Tel. 3775. Auctioneers and Estate Agents; Surveyors and Valuers. Also at Honiton and Sidmouth.

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ILFORD AND ALL ESSEX.—RANDALLS, Chartered Surveyors, Auctioneers, Valuers, 1 Medway Parade, Cranbrook Rd., Ilford. Est. 1884. Tel. ILFord 2201 (3 lines).

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KENT

BECKENHAM—BROMLEY.—SUTCLIFFE, SON & PARTNERS, Estate Agents and Surveyors. The Old Cottage, Estate office, opp. Shortlands Station, Kent. Tel. RAV. 7201/6157. Also at 20 London Road, Bromley. RAV. 0185/7.

EAST KENT.—WORSFOLD & HAYWARD, offices at 3 Market Square, Dover; 11 Queen Street, Deal; 4 St. Margaret's Street, Canterbury. Established 1835.

LANCASHIRE

BARROW-IN-FURNESS, NORTH LANCASHIRE AND SOUTH CUMBERLAND.—CHARLES G. LOWDEN, Chartered Surveyor & Auctioneer. Est. 1869. 18/24 Cornwallis Street, Barrow-in-Furness. Tel. Barrow 364.

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LANCASHIRE—(*Contd.*)

LIVERPOOL & DISTRICT.—JOS. RIMMER & SON, (Charles F. Reid, Robert Hatton). 48 Castle Street, Liverpool, 2. Tel. Central 3068. Chartered Surveyors, Chartered Auctioneers and Estate Agents.

GEO. H. EDWARDS & CO., 3 and 4 Williamson Sq., Liverpool 1. Est. 1880. Tel. Royal 2434 (2 lines).

MANCHESTER.—EDWARD RUSHTON, SON & KENYON, 12 York Street. Est. 1855. Tel. CENtral 1937. Telegrams Russoken.

LEICESTERSHIRE

LEICESTER, LEICESTERSHIRE & MIDLANDS.—MONTAGUE TURNOR, F.A.L.P.A., F.V.I., Auctioneer, Estate Agent, Surveyor and Valuer, 27 Belvoir Street, Leicester. (Tel. 65244-5.)

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CHELSEA.—WHELEN & CO., F.A.I., Markham House, 138a Kings Road, S.W.3. Tel. KNightsbridge 5225/6/7. Also in Sloane Street, S.W.1. Tel. SLOane 1891.

WINCHMORE HILL, ENFIELD, SOUTHGATE, AND NORTH LONDON SUBURBS.—KING & CO., Chartered Surveyors and Valuers, 725 Green Lanes, N.21. LAB. 1137. Head Office, 71 Bishopsgate, E.C.2.

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RETFORD.—HENRY SPENCER & SONS, Auctioneers and Valuers, 20 The Square, Retford, Notts. Tel. 531/2. 9 Norfolk Row, Sheffield. Tel. 25206. 91 Bridge Street, Worksop. Tel. 2654.

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CAMBERLEY (HANTS & BERKS BORDERS).—SADLER & BAKER, Chartered Auctioneers and Estate Agents, 31 High Street. Est. 1880. Tel. 1619.

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GUILDFORD.—CHAS. OSENTON & CO., High Street. Tel. 62927/8.

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YORKSHIRE

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